

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No.8056 of 2021

***Maina @ Mahendra @ Mohan
Kradika and another***

.... Petitioners

Mr. S.S. Ray-2, Advocate

-versus-

State of Odisha

.... Opposite Party

Mr. M.K. Mohanty, ASC for State

CORAM:

JUSTICE A.K.MOHAPATRA

**ORDER
04.05.2022**

Order No.

03. 1. This matter is taken up through Hybrid Arrangement (Virtual/Physical Mode).
2. This is an application under Section 439 Cr.P.C. filed by the Petitioners for bail in connection with Muniguda P.S. Case No.71 of 2021, corresponding to T.R. Case No.60 of 2021, pending in the file of learned Addl. Sessions Judge-cum-Special Judge, Gunupur, for commission of alleged offences under Sections 20(b)(ii)(C)/29 of N.D.P.S. Act.
3. Heard learned counsel for both the parties. Perused the FIR, Case Diary and statement of witnesses.
4. The brief facts of the case, in a nutshell, is that one Pratap Behera, SI of Police lodged a written report alleging

there in that on 08.02.2021 at about 11 A.M. received reliable information that few persons of village Kutudukupa and Muchiguda are preparing to transport huge quantities of contraband ganja conspiring with few mafia and have kept those bags nearby the forest of their village and are waiting for the vehicle to transport the said ganja to Muniguda area. Getting such information, when the Informant along with other officials were rushed to the spot they noticed 8 to 10 persons were gathered and on seeing the police they started running towards the village. On chasing four persons were apprehended and on being asked, they disclosed their name as Bhima Gageranga, Prasad Gageranga, Trinath Gageranga and Kabiraj Gageranga and on search of the said area huge quantity of contraband ganja was found kept in white colour plastic bags. When the accused persons have been interrogated, they disclosed that sardar Kradika, Mohan Kradika, Hital Kradika, Drahi Kradika, Damburu Kradika, Binduru Kradika, Seigi Kradika along with few other villagers have cultivated and harvested those ganja and have fled away from the spot. Accordingly, the police have seized 43 nos. of bags in which 653 kgs. of ganja have been found. Accordingly, Muniguda P.S. Case No.71 of 2021 has been registered and accused persons were forwarded to the jail custody.

5. Learned counsel for the Petitioners submits that Petitioners are languishing in jail custody since the date of their

arrest, i.e. on 23.07.2021 and that after completion of investigation, the police filed charge-sheet against the present Petitioners. It is further submitted that Petitioners are innocent poor villagers and no contraband article was seized from their exclusive and conscious possession and the allegation made in the FIR is omnibus in nature and there is absolutely no overt act against the present Petitioners. On the basis of 161 statement, the present Petitioners have been entangled in the matter. It is also submitted that the Petitioners are the resident of their village and therefore, there is no chance to evade the process of trial. Accordingly, a prayer has been made to release the present Petitioners on bail.

6. Learned counsel for the State vehemently objects the prayer for bail of the Petitioners. It is submitted that now-a-days case of illegal trafficking of contraband articles are increasing day by day, therefore, no leniency should be shown to the present Petitioners, who are involved in such crime. Accordingly, he prays for rejection of their bail applications.

7. Having regard to the facts and circumstances of the case, considering the nature and gravity of offences alleged and the period of detention of the Petitioners, this Court is inclined to release the Petitioners on bail on furnishing a bail bond of Rs.50,000/- (Rupees Fifty thousand) each with one surety each for the like amount to the satisfaction of the learned court in seisin of the matter subject to the following conditions :

- i) They shall not involve themselves in any similar nature of offence particularly involving the offence under the NDPS Act;
- (ii) They shall appear before the trial court on each and every date as fixed by the court;
- (iii) They shall appear before the I.O. once in a fortnight, preferably on every Sunday at 10 A.M. to 1.00 P.M. and report to the police till end of trial;
- (iv) They shall not tamper with the prosecution evidence;
- (v) They shall not influence or threaten any prosecution witness and cooperate in the investigation;
- (vi) They shall provide their present address and mobile numbers to the I.O. and if any changes therein shall also be intimated to the I.O.;
- (vii) They shall not leave the jurisdiction of the court without special permission from the court; and
- (viii) Violation of any of the above conditions shall entail cancellation of the bail applications.

8. It is further directed that the court in seisin of the matter to verify the criminal antecedents of the Petitioners and impose any additional condition(s), if situation so warrants. This order shall remain valid in the event the court in seisin of the matter is satisfied that Petitioners have no criminal antecedents.

9. With the above direction, the BLAPL is accordingly allowed.

10. Issue urgent certified copy of this order on proper application.

(A.K. Mohapatra)
Judge